

COMMISSION ON POLICE PRACTICES

REGULAR MEETING AGENDA

Tuesday, November 22, 2022

6 p.m. – 8 p.m.

Remote Zoom Webinar Platform

<https://sandiego.zoomgov.com/j/1615006941>

or

Phone: 1 669 254 5252 or 833 568 8864 (Toll Free)

Webinar ID: 161 500 6941

COVID- 19 PUBLIC SERVICE ANNOUNCEMENT REGARDING MEETING ACCESS AND PUBLIC COMMENT:

Until further notice, Commission on Police Practices meetings will be conducted pursuant to the provisions of California Government Code Section 54953(e), added by Assembly Bill 361, which suspends certain requirements of the Ralph M. Brown Act. During the current State of Emergency and in the interest of public health and safety, all Commission on Police Practices meetings will take place via teleconferencing. All Commissioners and members of Commission staff will participate in Commission on Police Practices meetings via teleconferencing. Additional log in information is at the end of this agenda.

- I. CALL TO ORDER/WELCOME (Chair Brandon Hilpert)
- II. ROLL CALL (Interim Executive Director Sharmaine Moseley)
- III. DISCUSSION/ACTION (Chair Brandon Hilpert)
 - A. Adoption of Resolution Authorizing and Ratifying the Continuance of Teleconference Public Meeting Pursuant to Government Code 54953

Motion: The Commission on Police Practices will adopt this Resolution authorizing and ratifying the use of teleconferencing for all meetings including meeting of ad hoc or standing committees, in accordance with Government Code Section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this Resolution, or such a time that the Commission adopts a subsequent Resolution in accordance with Government Code Section 54953 (e). The Interim Executive Director is directed to return no later than thirty (30) days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.

- IV. PUBLIC COMMENT: Fill out and submit comment using [webform](#). Please see instructions at the end of this agenda.
- V. CLOSED SESSION (CANCELLED)

- VI. REPORT OUT FROM CLOSED SESSION (No Report)
- VII. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP)
- VIII. APPROVAL OF MEETING MINUTES
- A. CPP Regular Meeting Minutes of September 27, 2022
 - B. CPP Regular Meeting Minutes of November 15, 2022
- IX. NON-AGENDA PUBLIC COMMENT: Fill out and submit comment using [webform](#). Please see instructions at the end of this agenda
- X. EDUCATIONAL/TRAINING
- Topic: “Overview of Mobile Crisis Response Teams (MCRT) ” (20 mins)**
- Guest Speakers: Dr. Piedad Garcia, Deputy Director
Alisha Eftekhari, Behavioral Health Program Coordinator
Adult & Older Adult Services at San Diego Health & Human Services Agency**
- XI. UNFINISHED BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
- A. Reassessment of the triaging of cases, streamlined case reports, and completion of case reports for officer notifications
 - B. Caseload Update & Status of Case Reports (IED Sharmaine Moseley)
- XII. NEW BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)
- A. Reorder future CPP agendas items (ACTION ITEM)
 - B. Proposed Operational Procedure for Nominations & Selection Process for Commissioners (DRAFT November 4, 2022 – V4.) (ACTION ITEM)
- Action Item: Approval of the revised proposed operational procedure for the nominations & selection process for CPP Commissioners**
- C. Proposed Operational Procedure for the Selection Process for the Executive Director of the OCPP (DRAFT October 25, 2022 – V3.) (ACTION ITEM)
- Action Item: Approval of the proposed operational procedure for the selection process for the Executive Director of the OCPP**
- D. CPP Complaint Form Addition – Admonition Statement Required by Penal Code Section 148.6 (a) (2), that filing a knowingly false complaint of peace officer misconduct may result in criminal prosecution (ACTION ITEM)
- Action Item: Approval of the addition of the admonition statement required by Penal Code Section 148.6 (a)(2) to the Commission’s Complaint Form**
- XIII. SAN DIEGO POLICE DEPARTMENT REPORT (EA Chief Chris McGrath)
- A. Status of CPP Cabinet Meeting with SDPD Training Captain Regarding Use of Force & Show of Force Reporting
 - B. Updates (Staffing in IA, Training, etc.)

XIV. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)

A. Continuing Education Committee (Nancy Vaughn)

1. List of Past/Upcoming Educational Topics/Presentations
 - Restraining Orders
 - Interactions Between Kumeyaay People & Law Enforcement
 - Show of Force/Use of Force & Reporting Requirements
 - Determinations of Unfounded/Not Sustained Findings for Investigations of Discrimination Allegations
 - Implicit Bias/Discrimination/Racial Profiling
 - Tour of Central Jail

B. Outreach Committee (Robin Spruce)

1. Past Events/Virtual Meetings/Roundtable Discussions
2. Upcoming Events/Outreach Opportunities

C. Rules Committee (1st Vice Chair Doug Case)

D. CPP Handbook Committee (1st Vice Chair Doug Case)

1. Update – On Hold

E. Policy Committee (Chair Brandon Hilpert)

1. Protest Procedure (SDPD Procedure 4.17)
2. CPP to receive notification of policy/procedure changes at the same time as officers are notified
3. Use of Force (SDPD Procedure 1.04) – Add a time requirement for when a Use of Force report must be completed
4. Discipline Memos – Recommend that since past misconduct is not included in memos, prior accolades should be omitted as well
5. Critical Incident Video – Sharing of BWC with families prior to public release
6. Mobile Crisis Response Team Referrals by SDPD

F. Recruitment & Training Committee (Kevin Herington)

1. Update – Joint Recruitment & Outreach Committee Meeting on 11/17 @ 5:30pm via Zoom Webinar – **Cancelled**

G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)

1. Next CAB Meeting on November 28, 2022

H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)

1. Budget Update
2. Staffing & Legal Counsel Update
3. Implementation Ordinance & Standard Operating Procedures Update
4. Office Space Update

XV. CHAIR'S REPORT (Chair Brandon Hilpert)

A. Reminders for Commissioners

1. 2nd Quarter (October 1st – December 31st) Volunteer Hours Report – All Commissioners log hours in for reporting purposes
2. Internal Affairs Office Hours/Schedule

B. Updates

1. Collaboration/Information Sharing with Statewide Oversight Groups

2. Update & Next Steps Countywide MOU Between County Chiefs & Sheriff's Association
- C. Other Items/Reminders
- XVI. EXECUTIVE DIRECTOR'S REPORT (Interim ED Sharmaine Moseley)
 - A. Planning for CPP Former Member Appreciation/Acknowledgements (Robin Recendez) – On Hold
 - B. Staff Training on Records Management & Retention Plan for CPP
 - C. City of SD Budget Equity Training & Process
 - D. Release of CPP FY2022 Statistics to Open Data Portal
 - E. Drafting of CPP Standardized Annual Report (Due in December 2022)
 - F. Other Items/Reminders
- XVII. COMMISSIONER RIDE-ALONG REPORTS
- XVIII. COMMISSIONER ANNOUNCEMENTS/COMMENTS
- XIX. ADJOURNMENT

Materials Provided:

- CPP Resolution Authorizing & Ratifying the Continuance of Teleconferenced Public Meetings Pursuant to Government Code 54953
- Minutes from Regular Meeting on October 25, 2022 (DRAFT)
- Minutes from Regular Meeting on November 15, 2022 (DRAFT)
- Key Dates for FY23 Budget Monitoring & FY24 Budget Development
- Proposed Operational Procedure for Nominations & Selection Process for Commissioners (DRAFT November 4, 2022 - V4)
- Proposed Operational Procedure for the Selection Process for the Executive Director of the OCPP (DRAFT Approved on October 25, 2022 -V3.)
- Report on Law Enforcement Complaint Forms (CPP Outside Counsel)

In lieu of in-person attendance, members of the public may participate and provide comment via virtual attendance or using the webform, as follows:

Virtual Testimony:

Members of the public may provide comment on the comment period for Non-agenda Public Comment or Agenda Public Comment during the meeting, following the [Public Comment Instructions](#).

Written Comment through Webform:

In lieu of in-person attendance, members of the public may submit their comments using the [webform](#). If using the webform, indicate the agenda item number you wish to submit a comment for. Instructions for word limitations and deadlines are noted on the [webform](#). On the [webform](#), members of the public should select Commission on Police Practices (even if the public comment is for a Commission on Police Practices Committee meeting).

The public may attend a meeting when scheduled by following the attendee meeting link provided below. To view a meeting archive video, click [here](#).

Only comments submitted no later than 4pm the day prior to the meeting using the public comment webform will be eligible to be read into the record. If you submit more than one comment on webform per item, only one comment will be read into the record for that item. **Comments received after 4pm the day prior and before 8am the day of the meeting** will be provided to the Commission or Committee and posted online with the meeting materials. All comments are limited to 200 words. Comments received after 8am the day of the meeting, but before the item is called, will be submitted into the written record for the relevant item.

If you attach any documents to your comment, it will be distributed to the Commission or Committee in accordance with the deadlines described above.

Joining the webinar as an attendee:

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://sandiego.zoomgov.com/j/1615006941>

Description: This meeting is open to the public.

Or One tap mobile:

+16692545252,,1615006941# US (San Jose)

+16692161590,,1615006941# US (San Jose)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 254 5252 or +1 669 216 1590 or +1 646 828 7666 or +1 551 285 1373 or 833 568 8864 (Toll Free)

Webinar ID: 161 500 6941

International numbers available: <https://sandiego.zoomgov.com/u/adnUvUcWD>

Or an H.323/SIP room system:

H.323: 161.199.138.10 (US West) or 161.199.136.10 (US East)

Webinar ID: 161 500 6941

SIP: 1615006941@sip.zoomgov.com

CANCELED

SAN DIEGO COMMISSION ON POLICE PRACTICES RESOLUTION AUTHORIZING
AND RATIFYING THE CONTINUANCE OF TELECONFERENCED PUBLIC MEETINGS
PURSUANT TO GOVERNMENT CODE 54953

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on January 30, 2020, the World Health Organization ("WHO") declared a Public Health Emergency of International Concern as a result of the COVID-19 virus. On January 31, 2020, the United States Secretary of Health and Human Services also declared a Public Health Emergency of the COVID-19 virus; and

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the COVID-19 virus, which was subsequently ratified by the Board of Supervisors on February 19, 2020, and recognized by the City of San Diego; and

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency ("State of Emergency") pursuant to section 862 of the California Emergency Services Act, in response to the COVID-19 pandemic; and,

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the "Brown Act"), provided certain requirements were met and followed; and,

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and,

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 which provides that a legislative body subject to the Brown Act may use revised teleconference rules provided under section 53593(e) if the legislative body makes certain findings and those findings are reconsidered every thirty (30) days, as applicable; and,

WHEREAS, on September 20, 2021, Governor Newsom issued Executive Order N-15-21 that suspended AB 361 through September 30, 2021; and,

WHEREAS, the proclaimed State of Emergency remains in effect; and,

WHEREAS, the California Occupational Safety and Health Standards Board adopted California Code of Regulations, Title 8, Section 3205 which states, "particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased

ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination;” and

WHEREAS, on or about September 23, 2021, Dr. Wilma Wooten, the County of San Diego’s Public Health Officer issued a letter recommending the utilization of teleconferencing options for public meetings as an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and others from the COVID-19 virus (the “Teleconferencing Recommendation”); and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, this legislative body deems it necessary to take action for purposes of utilizing the provisions of AB 361 related to teleconferencing;

WHEREAS, social distancing measures have been imposed and implemented by the State of California to mitigate the spread of COVID-19; and

WHEREAS, the San Diego Commission on Police Practices believes the spread of COVID-19 poses an imminent risk to the health and safety of in person meeting attendees; and

WHEREAS, the San Diego Commission on Police Practices is committed to open and transparent governance in compliance with the Brown Act; and

WHEREAS, the San Diego Commission on Police Practices is conducting virtual meetings by way of telephonic and/or internet-based services as to allow members of the public to fully participate in meetings and offer public comment.

NOW THEREFORE, BE IT RESOLVED, that the recitals set forth above are true and correct and fully incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, that the San Diego Commission on Police Practices recognizes that a State of Emergency in the State of California continues to exist due to the COVID-19 pandemic.

BE IT FURTHER RESOLVED, that the San Diego Commission on Police Practices recognizes that social distancing measures remain recommended by state and local officials.

BE IT FURTHER RESOLVED, that the San Diego Commission on Police Practices finds that holding in-person meetings would present imminent risks to the health or safety of attendees due to the cause of the State of Emergency and that the cause of the State of Emergency directly impacts the ability of the governing board members to meet safely in person.

BE IT FURTHER RESOLVED, the San Diego Commission on Police Practices authorizes and ratifies the use of teleconferencing for all meetings, including meetings of its ad hoc or standing committees, in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this resolution, or such a time that the Commission adopts a subsequent resolution in accordance with

Government Code section 54953(e)(3). The Interim Executive Director is directed to return no later than thirty (30) days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.

BE IT FURTHER RESOLVED, the Interim Executive Director is directed to take any other necessary or appropriate actions to implement the intent and purposes of this Resolution.

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately upon its adoption.

Adopted this _____ day of the month of _____ in 2022.

Motion made by: _____

Second made by: _____

Commissioners voting "yes" _____

Commissioners voting "no" _____

Commissioners abstaining _____

Commissioners not present _____

CANCELED

COMMISSION ON POLICE PRACTICES

REGULAR MEETING MINUTES

Tuesday, October 25, 2022

Via Zoom Webinar

Click <https://www.youtube.com/watch?v=Jpzttnm0AJo> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair

Doug Case, 1st Vice Chair

Kevin Herington, 2nd Vice Chair

Maxine Clark

Andrea Dauber-Griffin *(Left at 4:30pm & Returned at reconvened meeting at 6:00pm)*

Diana Dent

Ernestine Smith *(Left at 6:00pm & returned at 6:17pm)*

Nancy Vaughn

Absent/Excused:

Steve Hsieh

Chris Pink

Robin Spruce

Staff Present:

Sharmaine Moseley, Interim Executive Director

Duane Bennett, CPP Outside Counsel

Alina Conde, Executive Assistant

Robin Recendez, Administrative Aide

San Diego Police Department (SDPD) Staff Present:

Internal Affairs Captain Anthony Dupree

Lieutenant Dan Sayasane

Lieutenant Tristan Schmottlach

-
- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 4:01pm.
 - II. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.
 - III. DISCUSSION/ACTION (Chair Brandon Hilpert)
 - A. Adoption of Resolution Authorizing and Ratifying the Continuance of Teleconference Public Meeting Pursuant to Government Code 54953

Motion: The Commission on Police Practices will adopt this Resolution authorizing and ratifying the use of teleconferencing for all meetings including meeting of ad hoc or standing committees, in accordance with Government Code Section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this Resolution, or such a time that the Commission adopts a subsequent Resolution in accordance with Government Code Section 54953 (e). The Interim Executive Director is directed to return no later than thirty (30) days after the adoption of this Resolution with an item for this legislative body's reconsideration of these findings.

Chair Brandon Hilpert moved for the Commission on Police Practices to adopt this Resolution. Commissioner Nancy Vaughn seconded the motion. The motion passed with a vote of 8-0-0. (Time 2:10)

Yays: Chair Hilpert, 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Smith, and Commissioner Vaughn

Nays: None

Abstained: None

Absent/Excused: Commissioner Hsieh, Commissioner Pink, and Commissioner Spruce

IV. PUBLIC COMMENT: No public comment received.

V. CLOSED SESSION

A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5-832.8 and Evidence Code Section 1040. Reportable actions for the Closed Session items on the agenda will be posted on the Commission's website at www.sandiego.gov/cpp or stated at the beginning of the Open Session meeting if the meeting is held on the same day.

- I. San Diego Police Department Feedback on Case Specific Matters
- II. Shooting Review Board Reports (0)
- III. Category II Case Audit Reports (0)
- IV. Discipline Reports (2)
- V. Case Review Team Reports (3)
- VI. Case-Specific Recommendations to the Mayor/Chief (0)
- VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
- VIII. Legal Opinion(s) Request & Response (0)

- VI. OPEN SESSION: Chair Brandon Hilpert called the meeting to order at 6:09pm
- VII. REPORT OUT FROM CLOSED SESSION – CPP Outside Counsel, Duane Bennett stated various matters were discussed that included police disciplines and complaints. The Commission gave direction by a 7-0-0 vote to authorize an action to the police department in terms of deviation from the matrix. Chair Brandon Hilpert also reported that the Commission will be sending a memo to the police department when a Command Captain develops a discipline memo and they deviate from a discipline matrix, the Command Captain must elaborate why and what the deviation was. Chair Brandon Hilpert will review and confirm the policy and if needed, make recommendations to be added to the policy.
- VIII. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP): Chair Brandon Hilpert explained that the purpose of the Commission on Police Practices (CPP) is to provide an independent investigation of officer-involved shootings, in-custody deaths, and an unbiased evaluation of all complaints against the San Diego Police Department and its personnel in a process that will be transparent and accountable to the community. The Commission also evaluates SDPD policies, practices, trainings, and protocols and represent the community in making recommendations for changes. The mission of the Commission is to hold law enforcement accountable to the community and to increase community trust in law enforcement, resulting in increased safety for both the community and law enforcement.
- IX. APPROVAL OF MEETING MINUTES
- A. CPP Regular Meeting Minutes of September 27, 2022
Motion: Commissioner Nancy Vaughn moved for the Commission to approve the CPP Regular Meeting Minutes of September 27, 2022. Second Vice Chair Kevin Herington seconded the motion. The motion passed with a vote of 7-0-0. (Time 6:12)
- Yays: Chair Hilpert, 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, and Commissioner Vaughn**
- Nays: None**
- Abstained: None**
- Absent/Excused: Commissioner Hsieh, Commissioner Pink, Commissioner Smith (Entered at 6:17pm,) and Commissioner Spruce**
- B. CPP Regular Meeting Minutes of October 11, 2022
Motion: Commissioner Nancy Vaughn moved for the Commission to approve the CPP Regular Meeting Minutes of October 11, 2022. 2nd Vice Chair Kevin Herington seconded the motion. The motion passed with a vote of 7-0-0. (Time 6:12)

Yays: Chair Hilpert, 1st Vice Chair Case, 2nd Vice Chair Herington, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, and Commissioner Vaughn

Nays: None

Abstained: None

Absent/Excused: Commissioner Hsieh, Commissioner Pink, Commissioner Smith (Entered at 6:17pm) and Commissioner Spruce

X. NON-AGENDA PUBLIC COMMENT: No non-agenda public comment received.

XI. EDUCATIONAL/TRAINING

A. "District Attorney Investigative Procedures for Officer-Involved Shooting Incidents"

Presenters: DA Chief Investigator Jorge Duran and Deputy DA Stephen Marquardt – (Time 15:50) The presentation was based on how the District Attorney's office reviews Officer-Involved Shooting incidents. All incidents are reviewed by investigators and attorneys within their division. The Memorandum of Understanding dated March 7, 2022 sets a framework of which agency investigates an event. Penal Code 835a was also presented when a peace officer may use deadly force and the standard to evaluate the use of such force.

(Time 46:07) 1st Vice Chair, Doug Case stated that the commission now has a statutory duty to independently investigate all OI cases and in-custody deaths. Would CPP's investigator be able to participate in the three-day briefing? Will CPP have unfettered access to the content of the additional investigations including interviews and reports generated? Question answered.

(Time 49:51) Chair Brandon Hilpert asked how often does the US attorney's office for Civil Rights, attorney General and FBI participate in DA's office investigations? Question answered.

(Time 51:53) Chair Brandon Hilpert also asked how often does the DA's office do additional investigations beyond what is received beyond the investigative agency? Question answered.

(Time 53:48) Former Commissioner Sheila Holtrop asked when officers encounter the public and there is a fatality with a young adult or adult with autism or ADD, is that investigated the same as someone who has a mental health issue? As mentioned regarding PERT training, how many hours do officers have of PERT training with mental health? Question answered.

XII. UNFINISHED BUSINESS (DISCUSSION/ACTION) (Chair Brandon Hilpert)

- A. Feedback on the triaging of cases, streamlined case reports, and completion of case reports for officer notifications. – No questions or comments. CPP will be revisiting what the Commission agreed upon regarding writing the case reports shorter.

XIII. NEW BUSINESS (DISCUSSION/ACTION)

- A. Reorder future CPP agendas to place SDPD Report after non-agenda public comment. – It was suggested to move SDPD after community report or policy.

SDPD requested to be moved up and will be up to the Cabinet to decide and consider reordering the agenda. This item will be discussed in the Cabinet meeting.

- B. Operational Procedure for Nominations & Selection Process for Commissioners (DRAFT October 10, 2022 – V2.)

Motion: Approval of the operational procedure for the nominations & selection process for CPP Commissioners. The motion passed with a vote of 7-0-0. (Time 1:22:54)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Smith, and Commissioner Vaughn

Nays: None

Abstained: None

Absent/Excused: 2nd Vice Chair Herington (left at 7:00pm), Commissioner Hsieh, Commissioner Pink, and Commissioner Spruce

- C. Operational Procedure for the Selection Process for the Executive Director of the OCPP (DRAFT October 10, 2022 – V2.)

Motion: Approval of the Operational Procedure for the selection process for the Executive Director of OCPP. The motion passed with a vote of 7-0-0. (Time 1:27:03)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Smith, and Commissioner Vaughn

Nays: None Abstained: None

Absent/Excused: 2nd Vice Chair Herington (left at 7:00pm), Commissioner Hsieh, Commissioner Pink, and Commissioner Spruce

- D. Draft List of CPP Procedures – 1st Vice Chair Doug Case will discuss this item in the report out of Ad Hoc Transition Planning Committee (XIV- H).

- E. Draft CPP Memo to SDPD Regarding Canine Cases – Previously submitted in April 2017

Motion: Commissioner Nancy Vaughn moved for the Commission to approve, finalize, and send a memo to SDPD regarding canine cases. Commissioner Andrea Dauber-Griffin seconded the motion. The motion passed with a vote of 7-0-0. (Time 1:29:15)

Yays: Chair Hilpert, 1st Vice Chair Case, Commissioner Clark, Commissioner Dauber-Griffin, Commissioner Dent, Commissioner Smith, and Commissioner Vaughn

Nays: None Abstained: None

Absent/Excused: 2nd Vice Chair Herington (left at 7:00pm), Commissioner Hsieh, Commissioner Pink, and Commissioner Spruce

- F. New CPP Legal Resource Guide (Duane E. Bennett, Outside Counsel)
The guide was created in anticipation of the Commission conducting its own investigation in being a full investigatory body. It touches on various categories of complaints, searches, use of force, Penal Code 835, and eminent cases.

XIV. COMMITTEE CHAIR REPORTS (DISCUSSION/ACTION)

A. Continuing Education Committee (Nancy Vaughn)

1. List of Past/Upcoming Educational Topics/Presentations
 - Restraining Orders
 - Interactions Between Kumeyaay People & Law Enforcement
 - Show of Force/Use of Force & Reporting Requirements
 - Determinations of Unfounded/Not Sustained Findings for Investigations of Discrimination Allegations
 - Implicit Bias/Discrimination/Racial Profiling
 - Tour of Central Jail
 - Tour of Medical Examiner's Office (Oct. 6, 2022)
 - DA Office Investigation Procedure for OIA (Oct. 25, 2022)
 - Mobile Crisis Response Team (Nov. 22, 2022)

Committee Chair Nancy Vaughn had no current updates. Chair Brandon Hilpert added that during the Medical Examiner's tour, members of CLERB and the Citizens Advisory Board were invited to join this tour.

B. Outreach Committee (Robin Spruce) – No current updates from this committee. A future meeting will be scheduled for outreach and recruitment.

1. Past Events/Virtual Meetings/Roundtable Discussions
2. Upcoming Events/Outreach Opportunities

C. Rules Committee (1st Vice Chair Doug Case)

1. Update – This item is on hold. Waiting on full Commission.

D. CPP Handbook Committee (1st Vice Chair Doug Case)

1. Update – This item is on hold. Waiting on full Commission.

E. Policy Committee (Chair Brandon Hilpert)

1. Update on 10/6 Policy Committee Meeting – The CPP recommendations were already agreed by SDPD.
2. Protest Procedure (SDPD Procedure 4.17) – SDPD revised this procedure, CPP changes that were requested were incorporated.
3. CPP to receive notification of policy/procedure changes at the same time as officers are notified – CPP made an official recommendation. CPP had a meeting with Chief Nisleit and EA Chief McGrath and agreed to recommendations.
4. Use of Force (SDPD Procedure 1.04) – Adding a time requirement for when a Use of Force report must be completed. CPP would like to do more research before moving forward with this.

5. Discipline Memos – Recommend that since past misconduct is not included in memos, prior accolades should be omitted as well.
6. Critical Incident Video: Sharing of BWC with families prior to public release. SDPD is already implementing this and CPP did not make any recommendations.
7. Mobile Crisis Response Team Referrals by SDPD– This item is on hold. The Policy Committee is working on coordinating a presentation by the MCRT for next month's meeting.

F. Recruitment & Training Committee (2nd Vice Chair Kevin Herington)

1. Update – Joint Recruitment & Outreach Committee Meeting on 11/17 at 5:30pm via Zoom Webinar. – Chair Brandon Hilpert is working on a marketing media plan for recruitment of new Commissioners.

G. Citizens Advisory Board on Police Community Relations (Chair Hilpert)

1. Update on CAB Meeting on October 17, 2022

H. Ad Hoc Transition Planning Committee (1st Vice Chair Doug Case)

1. Draft List of CPP Procedures– identified 18 different procedures that will have to be adopted by new Commission and all operating procedures will require approval of City Council. The Commission cannot propose Investigatory Procedures until the new Commission is seated.
2. Budget Update – Anticipate getting support from City Council for CPP's budget moving forward and minor modifications from last year's proposal that will be proposed this year.
3. Staffing and Legal Counsel Update –two ongoing Executive searches; Community Engagement Coordinator, selection Committee selected candidates to move forward to the Community Panel. The Community Panel will start meeting next week to conduct interviews and provide feedback on candidates that have applied for the position. The application period has closed for the Supervising Investigator position and the Executive Search Recruiter is reviewing applicants and in the process of making recommendations to the Selection Committee.
4. Draft Implementation Ordinance & Standard Operating Procedures Update – Approved by City Council and now in second reading. The Implementation Ordinance will take effect 30 days (Nov. 17, 2022)
5. Office Space Update – Chair Brandon Hilpert reported that the original office space did not meet Commission's needs. DREAM proposed two options of office space in the same building. One office space works well, so we are waiting on information back from the architect regarding renovating to meet the Commission's needs. Currently waiting to hear back from the landlord and the broker. Tentative move in date will be January 2023.

XV. CHAIR'S REPORT (Chair Brandon Hilpert)

A. Reminders for Commissioners

1. 2nd Quarter (October 1st – December 31st) Volunteer Hours Report
All Commissioners need to log in their hours for reporting purposes. If there are any issues or if anyone needs help with trouble shooting, please reach out to Executive Assistant Alina Conde for assistance.
2. Internal Affairs Office Hours/Schedule – All Commissioners must

schedule office visits for case review in advance to make sure there is proper staffing in IA office.

B. Updates

1. Collaboration/Information Sharing with Statewide Oversight Groups
Quarterly meeting between state-wide organizations. All Commissioners are all welcome to attend.
2. Update & Next Steps on Countywide MOU Between County Chiefs & Sheriff Association – Plans to set up meeting with the Sherriff to go over the Countywide MOU.
3. Update on 10/5 Meeting with Chief Nisleit & IA – Several policy recommendations were discussed.

C. Other Items/Reminders – No other reminders or updates.

XVI. EXECUTIVE DIRECTOR'S REPORT (Interim ED Sharmaine Moseley)

- A. Caseload Update and Status of Case Reports– It was reported that as of today, the CPP has started out with 135 total cases assigned to the Teams. This number increased by 15 since last month's Open Session. Forty-two of those cases are Category II cases. The audits of these Category II cases have been suspended by the Commission since March due to the backlog of cases. However, although the Commission is deliberating on and closing out cases, the number of active cases is continuing to increase. Last month, the Commission had 81 active cases assigned to the Teams and as of today, the Commission has 93 active cases assigned to the Teams.

For fiscal year 2023 that began on July 1, the Commission reviewed, deliberated on, and closed out a total of 30 Category I cases, 1 officer-involved shooting case, and audited 2 Category II cases. The 30 Category I cases had a total of 154 allegations and 13 other findings. The Commission also evaluated 8 disciplines and 1 shooting review board report. These statistics does not include cases reviewed and closed out earlier tonight.

The statistics for the Team assignments are as follows:
None of the Teams were assigned ICD cases.

Team 1 has 13 active cases in their queue (11 are Category I cases– four of which have one or more sustained findings). One of these active cases was on tonight's Closed Session agenda and deliberated on by the Commission. The Team also has 7 Category II cases which are on hold and 2 OIS cases.

Team 2 is inactive.

Team 3 has 14 active cases in their queue. Of the 14 cases, 12 are Category I cases – two of which have sustained findings. The Team has 2 OIS cases. Both reports will be released by the SDPD under SB1421. The team also has 4 Category II cases on hold.

Team 4 has 23 active cases in their queue. Of the 23 cases, one is an OIS case which SDPD will be releasing their file on that case in the next few days. The other 22 cases are Category I cases. Six of the Category I cases have one or more sustained findings. The Team also has 16 Category II cases which are on hold.

Team 5 has 19 active cases in their queue. All of the 19 cases are Category I cases. Four of the Category I cases has one or more sustained findings. The Team also has 7 Category II cases which are on hold and no OIS cases in their

folder.

Team 6 has 24 active cases in their queue, all of which are Category I cases. Three of the Team's active cases were on tonight's Closed Session agenda. Two of those cases were deliberated on and closed by the Commission. Four of the 24 cases have one or more sustained findings. The Team also has 7 Category II cases which are on hold and no assigned OIS or ICD cases.

Team 7 is inactive.

Complaint Coordinator Robin Recendez reported that since the beginning of the fiscal year, there were 44 Out of Jurisdiction complaints, 83 within Jurisdiction complaints and 28 voice messages that CPP has responded to. Currently working on categorizing complaints and working with IA to streamline the complaint process.

- B. Planning for CPP Former Member Appreciation/Acknowledgements (Robin Recendez)- This item is on hold until early next year.
- C. Routing Items for Docketing to City Council Future Agenda
 - 1. Amended Conflict of Interest Code for CPP (Form 700)- the amended Conflict of Interest Code for the Commission was approved by Council on October 11th.
 - 2. Exemption of Two Program Coordinator Positions for CPP. The item to exempt two of the Commission's Program Coordinator positions is docketed for approval at Council's November 1st meeting.
- D. NACOLE Virtual Conference & Upcoming Webinars – NACOLE's virtual conference begins tomorrow and will continue each Wednesday for the next two weeks ending on November 9th.
- E. Preparation for Release of CPP FY2022 Statistics to Open Data Portal – Checking the accuracy for data on FY2022 case statistics in preparation for its release to the city's Open Data Portal.
- F. Drafting of CPP Standardized Annual Report (Due in December 2022) – Once the data is released to the portal, the standardized Annual Report will be drafted. This report is due in December.
- G. Other Items/Reminders – Informed by Outside Counsel and Internal Affairs, that based on state law there must be a perjury statement that is included in our joint complaint form with SDPD. For complaints to be processed, all complainants are required to sign this statement. Outside Counsel also explained penal code section 148.6.

XVII. SAN DIEGO POLICE DEPARTMENT REPORT (EA Chief Chris McGrath)

- A. Status of CPP Cabinet Meeting with SDPD Training Captain Regarding Use of Force & Show of Force Reporting – No report or current updates provided. EA Chief Chris McGrath was absent.
- B. Updates (Staffing in IA, Training, etc.) – No current updates.

XVIII. COMMISSIONER RIDE-ALONG REPORTS: No current report outs.

XIX. COMMISSIONER ANNOUNCEMENTS/COMMENTS: No current announcements or comments provided.

XX. ADJOURNMENT: The meeting adjourned at 8:01pm.

CANCELED

COMMISSION ON POLICE PRACTICES

REGULAR MEETING MINUTES Tuesday, November 15th, 2022 Via Zoom Webinar

Click <https://www.youtube.com/watch?v=uVdqAxtB4zU> to view this meeting on YouTube.

Commissioners Present:

Brandon Hilpert, Chair
Doug Case, 1st Vice Chair (left at 7:10pm)
Kevin Herington, 2nd Vice Chair (arrived at 5:10pm)
Maxine Clark
Andrea Dauber-Griffin
Diana Dent
Ernestine Smith (left at 7:10)
Robin Spruce
Nancy Vaughn

Absent/Excused:

Steve Hsieh
Chris Pink

Staff Present:

Sharmaine Moseley, Interim Executive Director
Duane Bennett, CPP Outside Counsel
Alina Conde, Executive Assistant

San Diego Police Department (SDPD) Staff Present:

IA Captain Anthony Dupree
Lieutenant Dan Sayasang

-
- I. CALL TO ORDER/WELCOME: Chair Brandon Hilpert called the meeting to order at 5:03pm.
 - II. ROLL CALL: Interim Executive Director Sharmaine Moseley conducted the roll call.
 - III. PURPOSE OF THE COMMISSION ON POLICE PRACTICES (CPP): Chair Brandon Hilpert explained that the purpose of the Commission on Police Practices (CPP) is to provide an independent investigation of officer-involved shootings, in-custody deaths, and an unbiased evaluation of all complaints against the police department and its personnel in a process that will be transparent and accountable to the community. The Commission will also evaluate the review of all SDPD policies, practices, trainings, and protocols and represent the community in making recommendations for changes. The mission of the Commission is to hold law enforcement accountable to the community and to increase community trust in law enforcement, resulting in

increased safety for both the community and law enforcement.

IV. PUBLIC COMMENT: No public comment received.

V. CLOSED SESSION

A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Discussion & Consideration of Complaints & Reports: Pursuant to Government Code Section 54957 to discuss complaints, charges, investigations, and discipline (unless the employee requests an open public session) involving San Diego Police Department employees, and information deemed confidential under Penal Code Sections 832.5-832.8 and Evidence Code Section 1040.

Reportable actions for the Closed Session items on the agenda will be posted on the Commission's website at www.sandiego.gov/cpp or stated at the beginning of the Open Session meeting if the meeting is held on the same day.

- I. San Diego Police Department Feedback on Case Specific Matters
- II. Shooting Review Board Reports (0)
- III. Category II Case Audit Reports (0)
- IV. Discipline Reports (0)
- V. Case Review Team Reports (5)
- VI. Case-Specific Recommendations to the Mayor/Chief (0)
- VII. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)
- VIII. Legal Opinion(s) Request & Response (0)

VI. REPORT OUT FROM CLOSED SESSION (7:16p.m.) – CPP Outside Counsel Duane Bennett reported out that the CPP met to discuss several matters of the Commission. There was no formal action necessary except as to one use of force complaint that was reviewed in Closed Session. In that matter, the Commission voted 9-0-0 to address an issue regarding the comprehensiveness of information provided to Internal Affairs. Chair Brandon Impert expanded on the issue and stated that the CPP voted to send a memo to the Chief of Police to request a reinstatement of past practices. The past practice was that anything that Internal Affairs Sergeants look at when they are doing an investigation (all documents, evidence, body cameras, etc.) that the Commission would have access to all of those files. This was not provided in the case that was reviewed so a memo will be forwarded to the Chief of Police asking to make sure that happens moving forward.

VII. NON-AGENDA PUBLIC COMMENT: No non-agenda public comment received.

VIII. ADJOURNMENT: The meeting adjourned at 7:17pm.



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 8, 2022

IBA Report Number: 22-26 REV

City Council: TBD

Item Number: TBD

FY 2024 Budget Development and FY 2023 Budget Monitoring Key Dates

OVERVIEW

The draft FY 2024 Budget Development and FY 2023 Budget Monitoring calendar (“Key Dates”) are prepared with input from the Office of the IBA, the Department of Finance, Engineering and Capital Projects, Public Utilities, Human Resources, the Budget and Government Efficiency Committee Consultant, the Active Transportation and Infrastructure Committee Consultant, and the Director of Legislative Affairs. The Key Dates are based on timelines required by the City Charter as well as those established by the previous fiscal year’s legislative calendar. The Key Dates include planned release dates of budget-related reports for both the operating and Capital Improvements Program (CIP) budgets, and their corresponding presentations to Council committees and to the full City Council.

One significant change to note for this year’s Key Dates is the addition of a call for Councilmember budget priorities in September, reflecting an action taken by the City Council on June 27, 2022. Typically, the Budget Priorities Resolution is adopted by Council in February of each year at which time a significant portion of the Mayor’s Proposed Budget has already been determined. Submitting the Budget Priorities Resolution earlier than in prior years is intended to better position Councilmember priorities for consideration in the Mayor’s Proposed Budget.

The Budget and Government Efficiency Committee reviewed the proposed Key Dates on September 14, 2022. At committee, Council President Elo-Rivera requested that the evening Council hearing for public input on the Proposed Budget scheduled on Friday, May 12 be changed to Wednesday, May 10. The committee approved the proposed Key Dates with this change and forwarded it to the full City Council. Our Office has updated the proposed Key Dates accordingly.

The Office of the IBA believes that the proposed Key Dates for the development and adoption of the FY 2024 budget provide numerous opportunities for input from the public and for City Council

review and deliberation, while complying with all City Charter requirements. We recommend that the City Council review and approve the calendar, with any desired modifications.


Jillian Kisse
Deputy Director


APPROVED: Charles Modica
Independent Budget Analyst

Attachment: Fiscal Year 2024 Budget Development and Fiscal Year 2023 Budget Monitoring
Key Dates

CANCELED

THE CITY OF SAN DIEGO



Fiscal Year 2024 Budget Development & Fiscal Year 2023 Budget Monitoring KEY DATES

Friday, September 2, 2022	Call memorandum issued for City Councilmember FY 2024 City Council Budget Priorities.
Wednesday, September 7, 2022	Call memorandum issued by Engineering & Capital Projects for City Councilmember FY 2024 priority Capital Improvement Program (CIP) projects.
Friday, September 30, 2022	City Council FY 2024 budget priority memoranda due to Office of the Independent Budget Analyst.
Friday, October 7, 2022	Councilmember CIP priorities due to Engineering & Capital Projects staff for inclusion in FY 2024-2028 Five-Year Capital Infrastructure Planning Outlook.
Thursday, October 13, 2022	Office of the Independent Budget Analyst releases report on FY 2024 City Council Budget Priorities.
Wednesday, October 19, 2022	Budget and Government Efficiency Committee reviews Office of the Independent Budget Analyst's report on FY 2024 City Council Budget Priorities.
Monday, October 31, 2022	Council reviews and approves the FY 2024 Budget Priorities Resolution, presented by Office of the Independent Budget Analyst.
Friday, November 4, 2022	Release of FY 2023 CIP Mid-Year Budget Monitoring Report.
Thursday, November 10, 2022	Release of FY 2024-2028 Five-Year Financial Outlook, Public Utilities FY 2024-2028 Five-Year Financial Outlook and FY 2023 First Quarter Budget Monitoring Report.

Wednesday, November 16, 2022	Active Transportation and Infrastructure Committee reviews FY 2023 CIP Mid-Year Budget Monitoring Report.
Friday, November 18, 2022	Special Budget and Government Efficiency Committee reviews FY 2024-2028 Five-Year Financial Outlook, Public Utilities FY 2024-2028 Five-Year Financial Outlook and FY 2023 First Quarter Budget Monitoring Report.
Tuesday, December 6, 2022	City Council reviews FY 2023 CIP Mid-Year Budget Monitoring Report to City Council and review by Office of the Independent Budget Analyst.
Tuesday, December 13, 2022	City Council reviews FY 2024-2028 Five-Year Financial Outlook, Public Utilities FY 2024-2028 Five-Year Financial Outlook, FY 2023 First Quarter Budget Monitoring Report, and related reports by Office of the Independent Budget Analyst.
Wednesday, December 14, 2022	Call memorandum issued to allow for updates to Councilmembers' FY 2024 City Council budget priority memorandum.
Friday, January 13, 2023	Updates to City Council budget priority memoranda due to Office of the Independent Budget Analyst.
	Release of FY 2024-2028 Five-Year Capital Infrastructure Planning Outlook.
Wednesday, January 25, 2023	Office of the Independent Budget Analyst releases report on Councilmembers' updates to FY 2024 City Council Budget Priorities.
	Active Transportation and Infrastructure Committee reviews FY 2024-2028 Five-Year Capital Infrastructure Planning Outlook.
Friday, February 3, 2023	Release of FY 2023 Mid-Year Budget Monitoring Report.
Wednesday, February 8, 2023	Budget and Government Efficiency Committee reviews Office of the Independent Budget Analyst's report updating FY 2024 City Council Budget Priorities and FY 2023 Mid-Year Budget Monitoring Report.

Monday, February 13, 2023	City Council reviews and approves the updated FY 2024 Budget Priorities Resolution, presented by Office of the Independent Budget Analyst.
	City Council reviews FY 2024-2028 Five-Year Capital Infrastructure Planning Outlook and related report by Office of the Independent Budget Analyst.
Monday, February 27, 2023	City Council reviews and approves FY 2023 Mid-Year Budget Monitoring Report, any recommended budgetary actions, and related report by Office of the Independent Budget Analyst.
Tuesday, April 11, 2023	City Council reviews and approves FY 2024 Salary Ordinance. Per City Charter, Council shall introduce a Salary Ordinance no later than April 15.
Friday, April 14, 2023	Release of Mayor's FY 2024 Proposed Budget online and printed copies provided to City Councilmembers and Office of the Independent Budget Analyst. Per City Charter, the Mayor must release the proposed budget to the Council and the public no later than April 15.
Monday, April 17, 2023	Mayor presents FY 2024 Proposed Budget at City Council.
Friday, April 28, 2023	Release of Independent Budget Analyst's Review of the Mayor's FY 2024 Proposed Budget.
	Call memorandum issued for FY 2024 City Council final budget modification priority memoranda.
Wednesday, May 3 through Tuesday, May 9, 2023	Budget Review Committee hearings, including: IBA Review of FY 2024 Proposed Budget to be presented on May 3, presentations by City departments and agencies, and corresponding Office of the Independent Budget Analyst presentations.
Wednesday, May 3, 2023	6:00 PM Budget Review Committee hearing for public input on FY 2024 Proposed Budget.
Wednesday, May 10, 2023	6:00 PM City Council meeting for public input on FY 2024 Proposed Budget.

Tuesday, May 16, 2023	Release of Mayor's May Revision to FY 2024 Proposed Budget (May Revision), FY 2023 CIP Year-End Budget Monitoring, and FY 2023 Third Quarter Budget Monitoring Report.
Thursday, May 18, 2023	Budget Review Committee reviews FY 2024 May Revision and FY 2023 Third Quarter Budget Monitoring Report.
Wednesday, May 24, 2023	Active Transportation and Infrastructure Committee reviews FY 2023 CIP Year-End Budget Monitoring Report.
Friday, May 26, 2023	City Council final budget modification priority memoranda due to Office of the Independent Budget Analyst.
Wednesday, June 7, 2023	Release of Independent Budget Analyst's final report on recommended City Council modifications to the Mayor's Proposed FY 2024 Budget and May Revision, as well as report on the City Council final budget modification priority memoranda.
Monday, June 12, 2023	City Council approval of FY 2024 Budget and any final budget modifications. Per City Charter, budget adoption is required no later than June 15. City Council also reviews and approves FY 2023 CIP Year-End Budget Monitoring Report, FY 2023 Third Quarter Budget Monitoring Report, and recommended budgetary actions, and related reports by Office of the Independent Budget Analyst.
<i>Tuesday, June 13, 2023</i>	<i>Available for additional Council decisions and final budget adoption. (The following key dates for City Clerk transmittal and subsequent Mayor veto period would be extended by one day if this additional day is needed.)</i>
Tuesday, June 13, 2023	City Clerk to transmit budget resolution to Mayor within forty-eight hours of passage.
Wednesday, June 14, 2023	Mayor's veto period begins (Mayor's veto period is five business days after receipt of budget resolution from the City Clerk).
Thursday, June 15, 2023	Release of FY 2024 Appropriation Ordinance (text only) through the publication of the Budget and Government Efficiency Committee agenda for June 21, 2023.
Tuesday, June 20, 2023	Mayor's veto period ends. If appropriate, Council has five business days to override Mayor's veto.

Wednesday, June 21, 2023	Budget and Government Efficiency Committee reviews FY 2024 Appropriation Ordinance (text only).
Tuesday, June 27, 2023	City Council consideration and adoption of the FY 2024 Appropriation Ordinance. Per the City Charter, the adoption of the Appropriation Ordinance is required no later than June 30. <i>If applicable, Council's time period to override a Mayor's veto ends.</i>
Wednesday, July 12, 2023	Budget and Government Efficiency Committee reviews FY 2024 Statement of Budgetary Principles.
Monday, July 31, 2023	City Council consideration and adoption of the FY 2024 Statement of Budgetary Principles.
Wednesday, October 11, 2023	Release of FY 2023 Year-End Performance Report.
Wednesday, October 18, 2023	Budget and Government Efficiency Committee reviews FY 2023 Year-End Performance Report.
Monday, October 30, 2023	City Council reviews FY 2023 Year-End Performance Report.

CANCELLED

~~**APPROVED BY THE CPP 10/25/2022**~~
~~**PENDING APPROVAL BY THE CITY COUNCIL**~~

**PROPOSED OPERATIONAL PROCEDURE
NOMINATIONS AND SELECTION PROCESS
CITY OF SAN DIEGO COMMISSION ON POLICE PRACTICES**

1. The Commission shall appoint a Nominations Committee to be composed of 9 persons, with 3 current or former Commission members and 6 community members to be chosen by the Commission – 2 academic professionals who specialize in policing, criminal justice, and/or civil rights law and 4 from community nonprofit organizations or with relevant expertise in various fields including but not limited to racial and identity profiling (at least one of whom is in the 18-24 age group). None of the Nominations Committee members shall be associated with law enforcement. Applicants for the Commission shall not be eligible to serve on the Nominating Committee.
2. All applicants must submit an application via the Board and Commissions website (onboard.sandiego.gov). Applicants may submit up to two letters of recommendation from individuals or community-based organizations. A supplemental application will be sent to verify that applicants meet all of the criteria specified in the implementation ordinance and to ask for their age if they are interested in one of the youth-designated seats.
3. All applicants must attend an orientation session to explain how the Commission operates and time expectations.
4. The Nominations Committee shall interview all eligible applicants. All applicants shall be asked the same questions, to be approved by the City's Human Resources Department. Each Nominations Committee member shall submit a rating sheet.
5. The City will provide a list of which candidates that reside in low- and moderate-income U.S. Census tracts.
6. The Nominations Committee shall recommend one person for each of the open seats (2 youth designated, 9 City Council district designated, 5 from low- and moderate-income U.S. Census tracts, and 9 at-large). The Nominations Committee shall take the priority qualifications as indicated in the implementation ordinance for the at-large seats into consideration in making those appointments.
- ~~7. For the initial 2023 appointments, the Nominations Committee shall determine which are recommended for an initial one-year seat and which are for two-year seats.~~
- ~~8-7.~~ The Nominations Committee shall prepare a brief statement of qualifications for each recommended candidate.

9.8. The Nominations Committee shall send the recommendations to the City Council president, along with application materials for all candidates.

9. The final selection shall be at the sole discretion of the City Council, which is not required to accept Nomination Committee recommendations.

4.10. Following the first Council appointments to the Commission, the City Clerk will administer a random drawing to determine which of the 25 members will initially serve a one year term.

2. 11. Background checks will be conducted by the City's Personnel Department prior to appointment.

DRAFT
CANCELED

COMMISSION ON POLICE PRACTICES

~~APPROVED BY THE CPP 10/25/2022~~
~~PENDING APPROVAL BY THE CITY COUNCIL~~

PROPOSED OPERATING PROCEDURE
SELECTION PROCESS FOR THE EXECUTIVE DIRECTOR
CITY OF SAN DIEGO COMMISSION ON POLICE PRACTICES

1. The Commission shall contract with an executive search firm to conduct a national search. The search firm will prepare a brochure about the position, in consultation with the Commission and the City's Human Resources Department. The search firm will post the position on the City's website, NA COLE, and other relevant sites for at least 30 days.
2. The search firm will conduct an initial evaluation of the applications and select 10-15 that appear to be the most qualified.
3. A Selection Committee, consisting of the Commission officers or their designees and a community representative chosen by the Commission, will determine 5-7 semi-finalists.
4. A community panel comprised of representatives from 7-10 community organizations will interview the candidates and submit rating sheets. All candidates will be asked the same questions, approved by the City's Human Resources Department. All community panel members will be required to sign a confidentiality agreement.
5. The Commission will conduct confidential meetings to interview the candidates. Every Commissioner will submit a rating sheet. All candidates will be asked the same questions, approved by the City's Human Resources Department.
6. The Selection Committee will review all the rating sheets and select at least three candidates to interview.
7. The Selection Committee will recommend three candidates to the City Council. Candidates will not be ranked ordered. Instead, the Selection Committee will submit a list of strengths and weaknesses of each candidate.
8. The City Council will interview the three finalists and make the appointment.

AGENDA REPORT

To: Commission on Police Practices

RE: AGENDA ITEM: _____

On May 19, 2022, the California Court of Appeal issued a published decision affirming the issuance of an injunction against the city of Los Angeles that prohibits the City from accepting a citizen's complaint against a peace officer unless the complainant reads and signs the admonition required by Penal Code section 148.6 (a)(2), that filing a knowingly false complaint of peace officer misconduct may result in criminal prosecution.

Penal Code section 148.6 requires complainants to read and sign an advisory informing them of the right to file a complaint against a police officer, as well as mandatory investigation and records retention requirements. The code section also states that it is a misdemeanor for any person to file a knowingly false allegation of police misconduct.

In particular, Penal Code section 148.6 requires agencies accepting civilian complaints against police officers to include the following specific language in the complaint form:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CIVILIANS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CIVILIAN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Complainant

In 2002, the California Supreme Court upheld section 148.6 against a challenge the statute was an impermissible content - based speech restriction under the First Amendment to the

United States Constitution. (*People v. Stanistreet* (2002) 29 Cal.4th 497, cert. den. 538 U.S. 120.) Three years later, a panel of the United States Court of Appeals for the Ninth Circuit reached a different conclusion. The Ninth Circuit ruled section that Penal Code section 148.6 was an impermissible viewpoint-based speech restriction under the First Amendment because the statute criminalized false statements that accused a peace officer of misconduct, but not false statements made by the officer, or a witness, during the investigation that supported the officer.

The California Supreme Court in *Stanistreet* explained the circumstances that prompted the Legislature to enact section 148.6, stating that after the Rodney King incident in March 1991, law enforcement agencies throughout the state revised their citizen complaint procedures to promote greater accountability on the part of their line officers. However, according to the Legislature, “a glaringly negative side-effect [was] the willingness on the part of many of [California’s] less ethical citizens to maliciously file false allegations of misconduct against officers in an effort to punish them for simply doing their jobs.” Against this backdrop, the Legislature enacted section 148.6 in an effort to curb a perceived rising tide of knowingly false citizens’ complaints of misconduct by officers performing duties.

The city of Los Angeles was temporarily relieved from complying with the Penal Code advisory warning pending a federal consent decree. However, the Los Angeles Police Protective League filed a lawsuit and obtained injunctive and declaratory relief against the city. The Superior Court held that Penal Code section 148.6 (a)(2) is valid and enforceable, and that the City and Chief of Police are required to comply with that statutory provision.

The City appealed and argued that enforcement of the citizen advisory warning would impose “an impermissible viewpoint-based speech restriction” in violation of the First Amendment. In its May 2022 opinion, the Court of Appeal concluded the admonition in Penal Code section 148.6 does not chill speech or discourage complaints, as urged by the city. The court stated, “[B]ecause the United States Supreme Court has not ruled section 148.6 or an analogous statute is unconstitutional, we must follow *Stanistreet*. Therefore, we do, and we affirm.”

Based on Penal Code section 148.6 and this court decision, it has been recommended that the Commission on Police Practices include the statutory language of Penal Code section 148.6 in its complaint forms. As an oversight agency that accepts complaints against San Diego Police officers, the CPP is required to comply with the requisite language of the Penal Code.

It should be noted that the statutory language for police complaints has been in effect for many years, despite the fact that some departments have not included it in complaint forms. Even though agencies such as the LAPD had contended that the language in the Penal Code had a dissuading and chilling effect, the California Supreme Court and other courts disagreed.

It is important for the public to recognize that the purpose of the statutory language is not to discourage the filing of police complaints, but to ensure that complaints are filed truthfully

and in good faith. On the other hand, the public should be aware that it is not perjury if a complaint is simply not upheld. In other words, filing a complaint that is not sustained, exonerated or unfounded does not, ipso facto, subject the complainant to a charge of perjury or misdemeanor prosecution, etc. Under Penal Code section 148.6, it is against the law to file a complaint against a police officer that a person knows to be false. In this sense, Penal Code section 148.6 is not dissimilar to other admonitions at law, requiring that information provided to governmental agencies, such as the DMV, be truthful and signed under penalty of perjury.

By: Duane E. Bennett, Outside Legal Counsel

CANCELED